United Nations S/2018/503

Security Council

Distr.: General
25 May 2018

Original: English

Letter dated 25 May 2018 from the Permanent Representatives of Australia and the Netherlands to the United Nations addressed to the President of the Security Council

We are writing to you in your capacity as President of the Security Council for the month of May.

We write in reference to Council resolution 2166 (2014), and further to letters to the Council dated 1 and 28 August, 9 September and 16 December 2014, 20 July and 13 October 2015, 28 September 2016, 5 July 2017 and 24 May 2018.

We have the honour to inform you that Australia and the Netherlands have notified the Russian Federation, through a note verbale (see annex), that the Russian Federation bears responsibility, under international law, for its role in the downing of Malaysia Airlines flight MH17 on 17 July 2014.

The note verbale was transmitted earlier today to the Russian Federation through diplomatic channels.

Australia and the Netherlands have invited the Russian Federation to enter into bilateral negotiations in relation to this matter.

We would be grateful if you would have the present letter circulated as a document of the Security Council.

(*Signed*) Gillian **Bird**
Ambassador
Permanent Representative

(*Signed*) Karel J. G. **van Oosterom**
Ambassador
Permanent Representative

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Annex to the letter dated 25 May 2018 from the Permanent Representatives of Australia and the Netherlands to the United Nations addressed to the President of the Security Council

135/18
Embassy of Australia

MOS-087/18
Embassy of the Kingdom of the Netherlands

The Embassy of Australia to the Russian Federation and the Embassy of the Kingdom of the Netherlands to the Russian Federation present their compliments to the Third Asian Department and the First European Department of the Ministry of Foreign Affairs of the Russian Federation and have the honour to draw the Department's attention to the following.

On 17 July 2014, an aircraft operated by Malaysian Airlines with flight number MH17 and carrying a total of 298 individuals was shot down from the airspace of Ukraine and subsequently crashed in the vicinity of Donetsk Oblast, Ukraine. This tragic event caused the death of all those on board the aircraft and tremendous grief to their next of kin. This grief continues to affect their lives to this day and is aggravated by the fact that no responsibility for the downing has been acknowledged.

An investigation into the causes of the downing of flight MH17 was carried out by the Dutch Safety Board (DSB), with information provided by Australia, Belgium, Malaysia, the Russian Federation, Ukraine and the United States. The report of the DSB has revealed that the aircraft was shot down with a missile launched from a BUK-installation from the territory of Ukraine in an area that was under the effective control of separatists. Subsequent investigations by the Joint Investigation Team (JIT) concluded the exact nature of the weapon used and the fact that this particular BUK-installation was brought into Ukraine from the territory of the Russian Federation and was taken back to its territory after its deployment against flight MH17. The JIT announced on 24 May 2018 its conclusion that the BUK-installation belonged to the Russian Federation Army's 53rd Anti-Aircraft Missile Brigade.

Based on these facts, Australia and the Kingdom of the Netherlands consider that the Russian Federation, through its role in the downing of flight MH17 on 17 July 2014, has breached several obligations under international law owed to Australia and the Kingdom of the Netherlands, in their own right and in the exercise of their right to protect individuals on board flight MH17.

These breaches of international law constitute internationally wrongful acts for which the Russian Federation bears responsibility. That responsibility gives rise to legal consequences for the Russian Federation to:

(a) Accept fully its responsibility for those internationally wrongful acts;

(b) Cease those acts forthwith;

(c) Provide Australia and the Kingdom of the Netherlands with appropriate assurances and guarantees of non-repetition of these internationally wrongful acts;

(d) Provide Australia and the Kingdom of the Netherlands full reparation for the injury caused by these internationally wrongful acts.

Australia and the Kingdom of the Netherlands request that the Russian Federation enter into negotiations with them in relation to these breaches of international law by the Russian Federation and the legal consequences that flow from them. Australia and the Kingdom of the Netherlands request a prompt response from the Russian Federation to this request.

The Embassy of Australia and the Embassy of the Kingdom of the Netherlands avail themselves of the opportunity to renew to the Third Asian and the First European Departments of the Ministry of Foreign Affairs of the Russian Federation the assurances of their highest consideration.

Embassy of Australia
25 May 2018

Embassy of the Kingdom of the Netherlands
25 May 2018